

310 CMR 30.708: Areas of Critical Environmental Concern

Background Information

The proposed revisions to the hazardous waste regulations will prohibit hazardous waste facilities from being located: 1) within an Area of Critical Environmental Concern (ACEC); or 2) adjacent to or in close proximity to an ACEC, where such location would fail to protect the outstanding resources of the ACEC.

ACECs are places in Massachusetts that receive special recognition because of the quality, uniqueness, and significance of their natural and cultural resources. Such areas are designated by the Secretary of Energy and Environmental Affairs pursuant to M.G.L. c. 21A, §2(7) and 301 CMR 12.00. One of the purposes of such a designation is to preserve, restore, and enhance critical environmental resources as a result of an increased level of protection. For example, the ACEC regulations at 301 CMR 12.12 state that “[d]esignation of an area as an ACEC shall have the following effects: ... (1) All EOEAs shall take action, administer programs, and revise regulations in order to: (b) preserve, restore, or enhance the resources of the ACEC...”

While MassDEP’s solid waste siting regulations at 310 CMR 16.40(4)(d) prohibit locating solid waste management facilities within an ACEC or adjacent to an ACEC where the site would fail to protect the outstanding resources of the ACEC, MassDEP’s hazardous waste regulations contain no such prohibition with respect to hazardous waste facilities. These proposed regulations are intended to fill this gap by imposing a similar prohibition with respect to hazardous waste facilities.

310 CMR 30.001: Authority

310 CMR 30.000 is promulgated by the Commissioner of the Department of Environmental Protection pursuant to the authority granted by [M.G.L. c. 21A, § 2](#), M.G.L. c. 21C, §§ 4 and 6, M.G.L. c. 21E, § 6, and by St. 1987, c. 587, § 47.

30.010: Definitions

[Area of Critical Environmental Concern \(ACEC\) means an area designated by the Secretary of the Executive Office of Energy and Environmental Affairs pursuant to 301 CMR 12.00.](#)

310 CMR 30.501

(3)(a) Except as provided in 310 CMR 30.500, 30.305(5) and 30.801, the requirements of 310 CMR 30.060 through 30.999 do not apply to facilities for the storage, treatment, or disposal of hazardous wastes containing PCBs in concentrations equal to or greater than 50 parts per million, provided that such facilities shall meet all of the following requirements:

1. They comply with all the applicable standards set forth in 40 CFR Part 761, as in effect July 1, 2002, for the storage, treatment, or disposal, as the case may be, of PCBs.
2. In the case of PCB incinerators or PCB waste landfills, they have been formally approved pursuant to 40 CFR Part 761, and such approval is in effect at the time.
3. If such facilities burn or incinerate PCBs, they do so in compliance with 310 CMR 7.00.

[4. They are not located within an Area of Critical Environmental Concern \(ACEC\) as designated by the Secretary of the Executive Office of Energy and Environmental Affairs or, if the facility is located outside but adjacent to or in close proximity to an ACEC, such location is protective of the outstanding resources of the ACEC as identified in the Secretary's designation. 310 CMR 30.501\(3\)\(a\)4. shall not apply to an existing facility that is otherwise in compliance with 310 CMR 30.000.](#)

(b) Any facility which is subject to 310 CMR 30.501(3) and which the Department determines is not in compliance with 310 CMR 30.501(3)(a)1. or 3. shall be deemed in violation of M.G.L. c. 21C and 310 CMR 30.000 regardless of whether or not that facility is in compliance with 310 CMR 30.501(3)(a)2., regardless of that facility's compliance status with respect to 40 CFR Part 761.

(c) The owner or operator of a facility for the storage of PCBs pursuant to 40 CFR 761.65 shall notify the Department in compliance with the requirements, set forth in 310 CMR 30.060 through 30.064.

310 CMR 30.708: Areas of Critical Environmental Concern

Notwithstanding any other provision of 310 CMR 30.000, no facility shall be located where such location or any portion thereof:

(1) Would be within an Area of Critical Environmental Concern (ACEC), as designated by the Secretary of the Executive Office of Energy and Environmental Affairs; or

(2) Would fail to protect the outstanding resources of an ACEC as identified in the Secretary's designation if the facility is to be located outside, but adjacent to or in close proximity to, an ACEC.

30.801: Who Must Have a License

No person shall transport, use, collect, store, treat, or dispose of hazardous waste or construct, operate or maintain any facility for the use, storage, treatment, or disposal of hazardous waste, unless said person has applied for and obtained, and has in effect, a valid license issued by the Department pursuant to M.G.L. c. 21C and 310 CMR 30.000, except that a license is not required for the following:

(12) The storage, treatment, or disposal of hazardous wastes containing polychlorinated biphenyls (PCBs) in concentrations equal to or greater than 50 parts per million by facilities which meet all the requirements in 310 CMR 30.501(3)(a) through (c) and 310 CMR 30.708.